State, 49 Tex. Cr. R. 349; or larceny, *People* v. *Hoagland*, 138 Cal. 338; *State* v. *Wasson*, 126 Iowa 320, because of the absence of the *animus furandi*. The proposition that such taking of general property to satisfy a debt is not robbery now seems to be as well established, for the instant case overrules the one outstanding authority to the contrary. *Fannin* v. *State*, 51 Tex. Cr. R. 41. Neither is such taking to satisfy a debt larceny. *Johnson* v. *State*, 73 Ala. 523; *Com.* v. *Stebbins*, 8 Gray 492. Of course, there must be a bona fide belief in the claim of right. Some courts hold it robbery when the loser in a gambling transaction forces the winner to return his money. *Carrol* v. *State*, 42 Tex. Cr. R. 30. See *Grant* v. *State*, 115 Ga. 205, contra. As far as the law is concerned, a regime of debt collectors "with their courts in their right hip pockets" is discouraged only by the penalties for trespass, breach of peace, etc. In accord with the instant case, see *Reg.* v. *Hemming*, 4 F. & F. 50; *State* v. *Hollyway*, 41 Iowa 200; *State* v. *Brown*, 104 Mo. 365, cited therein.

DAMAGES—CONTINUOUS TRESPASS OR REPEATED WRONG.—Defendant coal company had worked over the boundary between its own claim and that of the plaintiff, and removed from the plaintiff's land large quantities of coal. It was admitted by the officers of the defendant corporation that they had knowledge of the encroachments upon plaintiff's property as early as January, 1913, so that the original trespass must have occurred prior to that date. Apparently, however, the defendants continued to work across the line after that time and to remove coal from the plaintiff's claim. Defendants afterwards abandoned these workings and allowed the superincumbent soil to cave in. Late in 1916, the plaintiff and his engineer recognized that these encroachments had occurred, but were denied admission to the defendant's mine to ascertain the extent of the encroachments, on the plea that they could not get back to the division line because of the cave-in. Suit was begun March 28, 1918. The statute of limitations was pleaded. It was *held*, that "the statute begins to run only from the time of the actual discovery of the trespass or from the time when discovery was reasonably possible," not from the time of the trespass. *Petrelli* v. *West Virginia Coal Co.*, (W. Va., 1920), 104 S. E. 103.

Attention has before been called to the fact that neither courts nor legislatures seem to be satisfied with the conclusions reached in the English case of *Clegg* v. *Dearden*, (1848), 12 Ad. and El. (N. S.) 575, and in the Michigan case of *The National Copper Co.* v. *Minnesota Mining Co.*, (1885), 57 Mich. 83, on the subject of so-called continuous trespass. Cf. 19 MICH. L. REV. 375 In the instant case the court of West Virginia has followed the court of Pennsylvania in its solution of the problem, coming to a conclusion which satisfies the sense of justice, but the legal theory of which is somewhat difficult to explain. The West Virginia court cites *Lewey* v. *H. C. Fricke Coal Co.*, (1895), 166 Pa. 536, as a precedent for its decision. See also *Kingston* v. *Lehigh Valley Coal Co.*, (1913), 241 Pa. 469. Although this argument gives us a just decision, by postponing the time when the statute begins to run, it is a little difficult to see on principle how the *discovery* of a wrong can be

used to date the inception of a cause of action arising from the wrong and the consequent beginning of the period of limitation. If, however, we admit that each day's concealment of the fraud is a new wrong, we would have a new cause of action every day so long as the concealment continued. In the instant case we have evidence of the concealment of the wrong within the statutory period, in the refusal of the defendants to give to the plaintiffs access to the defendant's mine. The Michigan court has decided, in *Groendal* v. *Westrate,* (1912), 171 Mich. 92, that the plaintiff's action for malpractice of her physician was not barred by the statute, although the cause of action arising from the initial negligence of the physician was barred, because within the statutory period he had "fraudulently and purposely concealed from her the nature of her injury." If the "fraudulent concealment" of the statute (Act No. 168, Pub. Acts 1905, being section 9729, 3 MICH. COMP. LAWS, as amended), were generalized as a "repeated wrong," which would give rise to a new cause of action arising on the occurrence of such a wrong, the bar of the statute of limitations would be removed, whether the wrong were an injury to land, as in the instant case; an injury to the person, as in the malpractice case, *Groendal* v. *Westrate* (*supra*); or an injury to reputation, as in the slander or libel cases, *Dick* v. *Northern Pac. Ry. Co.,* (1915), 86 Wash. 211. Cf. 18 MICH. L. REV. 679; 19 MICH. L. REV. 381.

EVIDENCE—CRIMINAL LAW—PROOF OF NONCONSENT BY CIRCUMSTANTIAL EVIDENCE.—In a prosecution for knowingly and unlawfully taking or killing the cattle of another, no direct evidence of the owner's nonconsent was offered though the owner was present at the trial. The defendant moved for a directed verdict on the ground of a lack of proof as to the nonconsent of the owner to the killing. *Held,* motion denied as there were facts from which the nonconsent could be inferred. *State* v. *Parry,* (N. Mex., 1920), 194 Pac. 864.

The crime in the principal case, like that of larceny, rests on the nonconsent of the owner to the taking or the killing, otherwise the act would be lawful. It is the lack of consent that renders the act unlawful. This nonconsent of the owner must be shown in order to obtain a conviction, for otherwise no larceny would be established, *Garcia* v. *State,* 26 Tex. 209. As to what kind of evidence is necessary to establish the nonconsent of the owner there is some conflict. An early English case, in a prosecution for coursing deer without the consent of the owner, held that it was necessary on the part of the prosecution to call the owner of the deer to prove that he did not give his consent to the defendant to course them. *Rex* v. *Rogers,* 2 Camp. 654. This doctrine has been entirely repudiated and rejected by later English decisions. *Rex* v. *Hazy,* 2 C. & P. 458; *Rex* v. *Allen,* 1 Moody C. C. 154. But that case became the foundation for the doctrine that circumstantial evidence as to the nonconsent may be resorted to only when direct evidence of the owner is not obtainable. This doctrine is asserted in PHILLIPS ON EVIDENCE, [4th Ed.] 635, and has been followed by a few states. *State* v. *Osborne,* 28 Ia. 9. At one time Nebraska and Wisconsin also asserted this doctrine. *Bubster* v. *State,* 33 Neb. 663; *State* v. *Morey,* 2 Wis. 495. But they have now